XI-B-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

39

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Criminal Appeal No.361 of 2002

APPELLANT: Disu alias Deesen Ram, S/o Tiharu Sahu, aged about 37 years, R/o Village Rampur Bhakhara, P.S. Kurud, Tah. & Distt. Kurud (C.G.)

-Versus-

NON-APPELLANT: State of Chhattisgarh, through P.S. Kurud, Tah. & Distt. Kurud, (C.G.)

AND

Criminal Appeal No.1041 of 2001

APPELLANT: (In Jail) Tahal Ram Sahu, S/o Mohanlal Sahu, aged 32 years, Occupation – Holar Mill Owner, R/o Village Rampur Chowky, Bakhara, P.S. Kurud, Tehsil Kurud, District Dhamtari (C.G.)

-Versus-

RESPONDENT: State of Chhattisgarh, through Station House Officer, Kurud, District Dhamtari, (C.G.)

(Criminal appeal under Section 374 (2) of the Code of Criminal Procedure)

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Present:

Ku. Meenu Banerjee, counsel for the appellant in Cr.A. No.361/2002.

Shri Sandeep Shrivastava, counsel for the appellant in Cr.A. No.1041/2001

Shri Ashish Shukla, Additional Public Prosecutor with Shri Akhil Mishra, Panel Lawyer for the State/respondent.

CORAM: - Hon'ble Shri L.C. Bhadoo &
Hon'ble Shri Dhirendra Mishra, JJ.

ORAL JUDGMENT
(Delivered on 19-4-2007)

L.C. Bhadoo, J.

1. The aforesaid appeals filed by Disu alias Deesen Ram and Tahal Ram Sahu, respectively, are arising out of the same judgment passed in S.T. No.177/2000, therefore, they are being disposed of by this common judgment.

2. The accused/appellants have questioned legality and correctness of the judgment of conviction and order of sentence dated 12th September 2001 passed by the Additional Sessions Judge, Dhamtari, in S.T. No.177/2000 whereby learned Additional Sessions Judge after holding the accused/appellants guilty for commission of offence under Sections 302 read with Section 34 and 201 of the I.P.C., sentenced each of the accused to undergo imprisonment for life & to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo R.I. for 3

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months and to undergo R.I. for 3 years & to pay a fine of Rs.500/-, in default of payment of fine to further undergo R.I. for one month, respectively.

3. The case of the prosecution, in brief, is that Ramsheela Bai (since deceased), aged about 19 years, was unmarried. Accused Tahal Ram was married. She developed illicit relations with Tahal Ram. A report regarding commission of rape on Ramsheela Bai was lodged in the police station. After investigation, charge sheet was filed against accused Tahal Ram. A criminal case for commission of offence under Section 376 of the I.P.C. (S.T. No.162/97) was instituted. Ultimately, vide judgment dated 12/10/97 the accused was acquitted of the said charge. On account of physical relations of Tahal Ram with Ramsheela Bai, she became pregnant. Ultimately, she gave birth to a male child Hiralal. Ramsheela Bai filed an application under Section 125 of the Cr.P.C. for maintenance allowance for her minor son Hiralal against accused Tahal Ram, hearing of which was fixed on 23-2-2000. Accused Disu @ Deesen Ram was friend of accused Tahal Ram. He had also developed illicit relations with Ramsheela Bai. Accused Disu called Ramsheela Bai on 23-2-2000, therefore, Ramsheela Bai left the house along with her child Hiralal, aged about 3 years. Thereafter, the accused persons took Ramsheela Bai and Hiralal to the agricultural field of Devnath on a motorcycle, there they committed murders of Ramsheela Bai and Hiralal with hexablade. Thereafter, bodies of Ramsheela Bai and Hiralal were cut into pieces with hexablade and carpenter's axe. The pieces of their bodies were thrown in casing pipe of bore well of Johatram and Chowaram. Thereafter, sand and

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boulders were put on pieces of the dead bodies. Clothes of the deceased were burnt. Heads of the deceased which were separated from the bodies with hexablade were buried on the way of Rampur village after digging a pit with crowbar.

4. On 23-2-2000, after attending the case filed by Ramsheela Bai under Section 125 Cr.P.C. Daulal (PW-18), father of Ramsheela Bai, returned to his house, but his daughter and grandson were not at the house. He searched the whereabouts of Ramsheela Bai and Hiralal. Ultimately, he lodged missing report Ex.-P/30-A in the chowky Bhakhara of police station Kurud on 29-2-2000. On 7-3-2000, bodies of one female and one male child were recovered near Nayapara. To identify those bodies, father of Ramsheela Bai Daulal (PW-18) was summoned. After seeing the bodies, Daulal said that those bodies are not of his daughter and grandson. As suspicion was on the accused persons, therefore, they were summoned by Station House Officer, P.S. Kurud, S.K. Dubey (PW-21). During enquiry, on 9-3-2000, the accused persons gave memorandum regarding heads of deceased Ramsheela Bai and Hiralal and about commission of murders of Ramsheela Bai and Hiralal by them. Memorandum Ex.-P/15 was given by accused Tahal Ram whereas, memorandum Ex.-P/16 was given by accused Disu. On 10-3-2000, on the basis of information regarding death of Ramsheela Bai and Hiralal merg intimations Ex.-P/6 & P7 were given. The proceeding for recovery of heads of Ramsheela Bai and Hiralal was initiated in the presence of B.C. Sahu (PW-22), Executive Magistrate. After digging the place shown by the accused persons heads of Ramsheela Bai and Hiralal were exhumed. For

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	inquest notices Ex.-P/10 & P/11 were given. Inquest on the heads of Ramsheela Bai and Hiralal Ex.-P/12 and Ex-P/13 were prepared, heads were sent for examination to Dr. Vinod Kumar Pandey (PW-5). After examination, he prepared reports Ex.-P/8 and Ex.-P/9. Thereafter, the heads were sent to the Department of Forensic Medicine, Medical College, Raipur, where Dr. Sanjay Kumar Dadu (PW-3) conducted examination on 15-3-2000. After examination, the doctor opined that there were 12 injuries on the head of Ramsheela Bai. There were two injuries on the head of Hiralal. He opined that one head was of a lady aged about 19 years. The other head was of a child aged about 3 years. Based on that, crime No.55/2000 (Ex.-P/5) for commission of offence under Sections 302 and 201/34 of the I.P.C. was registered on 10-3-2000 by B.P. Pandey (PW-4). The sand, stone where pieces of bodies of Ramsheela Bai and Hiralal were buried were taken into possession. The head, hairs, plain soil and blood stained soil were taken into possession under Ex.-P/18. The bone pieces and soil where pieces of bodies were buried were also seized under Ex.-P/20. The bone pieces and blood stained soil from the agricultural field of Netram Nishad were seized under Ex.-P/21. At the instance of Disu carpenter axe, ~~one crowbar~~, one baniyan, full pant, shirt were seized from the house of Disu under Ex.-P/22, whereas, at the instance of accused Tahal Ram one crowbar and iron spanner were seized under Ex.-P/23. His clothes were also seized under Ex.-P/24. The motorcycle of accused Tahal Ram was seized under Ex.-P/25. Two pieces of hexablade were seized under Ex.-P/26. Slippers of Ramsheela Bai were seized under Ex.-P/27. The site plan Ex.-P/28 & Ex.-P/29 of both the places were prepared. The recovered articles	

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were sent for examination to the Forensic Science Laboratory from where report Ex.-P/37 was received.

5. After completion of investigation, charge sheet was filed against the accused persons for commission of offence under Sections 302/34 and 201 of the I.P.C. in the Court of Chief Judicial Magistrate, Dhamtari, who in turn committed the case to the Sessions Judge Raipur, from where learned Additional Sessions Judge, Dhamtari received the case on transfer.

6. The prosecution examined 22 witnesses at the trial in order to establish the charge against the accused persons. Statements of the accused persons were recorded under Section 313 Cr.P.C. in which the accused persons denied the material appearing against them in the prosecution evidence. They stated that they are innocent and have been falsely implicated in the crime.

7. Learned Additional Sessions Judge after hearing learned counsel for the respective parties, convicted and sentenced the accused/ appellants as aforementioned.

8. We have heard learned counsel for the parties.

9. In this case, there is no ocular or direct evidence in order to connect the accused persons with the crime in question. The whole case rests on the circumstantial evidence. As per the settled law in order to convict an accused based on the circumstantial evidence, the Hon'ble

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Apex Court in the matter of **Dhananjoy Chatterjee Vs. State of W.B.** reported in **(1994) 2 SCC 220** held that:

> "In a case based on circumstantial evidence, the circumstances from which the conclusion of guilt is to be drawn have not only to be fully established but also that all the circumstances so established should be of a conclusive nature and consistent only with the hypothesis of the guilt of the accused. Those circumstances should not be capable of being explained by any other hypothesis except the guilt of the accused and the chain of the evidence must be so complete as not to leave any reasonable ground for the belief consistent with the innocence of the accused. It needs no reminder that legally established circumstances and not merely indignation of the court can form the basis of conviction and the more serious the crime, the greater should be the care taken to scrutinize the evidence lest suspicion takes the place of proof."

10. In this case, the prosecution has tried to establish the charge against the accused persons based on the following circumstances which are extracted in para-48 of the judgment of the trial Court:-

I. On 23-2-2000 accused Disu @ Deesen Ram came to the house of Ramsheela Bai, Ramsheela Bai along with her son were last seen alive with Disu.

II. Criminal prosecution was launched against accused Tahal Ram for committing rape on Ramsheela Bai.

III. Accused Tahal Ram was married whereas, Ramsheela Bai was unmarried & on account of their physical relations, Ramsheela Bai gave birth to Hiralal.

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IV. As Tahal Ram refused to maintain Ramsheela Bai and Hiralal, therefore, proceeding under Section 125 Cr.P.C. was initiated against accused Tahal Ram which was pending in the Court at Dhamtari.

V. The accused gave threatening to Ramsheela Bai 3-4 days before her disappearance to commit her murder.

VI. The accused persons gave information regarding place where the heads of Ramsheela Bai and Hiralal were buried.

VII. The death of Ramsheela Bai and Hiralal was homicidal.

VIII. Weapons of offence carpenter axe, crowbar, and hexablade were recovered at the instance of the accused. Blood stain was found on Baniyan of Disu @ Deesen Ram and on the pant of Tahal Ram which were recovered from their residence at their instance.

11. As far as first circumstance that Ramsheela Bai along with her son Hiralal left the house on 23-2-2000 with Disu @ Deesen Ram is concerned, PW-19 Laxmi Bai, mother of Ramsheela Bai, has stated that on the fateful day her husband went to Dhamtari to attend the court in connection with maintenance case filed by Ramsheela Bai. On that day Ramsheela Bai was at the residence. At about 12 noon, she left the house with Hiralal. Before that, Disu @ Deesen Ram came to their house. He left the house. Ramsheela Bai left the house thereafter, she went with Disu. Ramsheela Bai informed her that she is going to watch TV. Thereafter Ramsheela Bai did not return. But the prosecution has failed to establish above circumstance. Based on the

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	above evidence of this witness, it is not established that in fact Ramsheela Bai along with her son went with Disu because as per her evidence Disu came on that day and left the house. Ramsheela Bai left thereafter saying that she is going to watch TV. This witness has not said or seen that in fact she saw deceased Ramsheela Bai with Disu @ Deesen Ram. Merely because on that day Disu @ Deesen Ram came to their house and left, thereafter Ramsheela Bai left the house, no inference can be drawn that Ramsheela Bai left the house along with Disu. Even she has not stated as to what was the time gap between when Disu left the house and Ramsheela Bai left the house. Moreover, she has stated that in the evening when her husband Dau Lal returned from the court, she informed him about going of Ramsheela Bai. Dau Lal has stated that about 4-5 days Ramsheela Bai and Hiralal were searched. When whereabouts of Ramsheela Bai and Hiralal could not be traced, therefore, missing report Ex.-P/30-A was lodged in the police out post Bhakhara. Perusal of Ex.-P/30-A reveals that in this missing report Dau Lal has not stated that Ramsheela Bai left the house along with her son and Disu or on that day, in fact, Disu came to their house. Therefore, this is an omission in the missing report regarding the fact that Ramsheela Bai left the house with Disu. There is no evidence that any villager saw Ramsheela Bai going with accused Disu. Looking to the weak nature of the evidence of Laxmi Bai (PW-19), the prosecution has failed to establish that Ramsheela Bai along with her son was last seen with Disu when they were alive.	

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12. As far as second circumstance is concerned, PW-18 Dau Lal, father of Ramsheela Bai, has stated that 3-4 years back a report was lodged against accused Tahal Ram for committing rape on Ramsheela Bai by him, therefore, criminal prosecution was launched against Tahal Ram and he was acquitted. In cross-examination, this witness has stated that the incident took place 3-4 years back. The matter was not compromised. But when the case was pending, they were not talking, therefore, in view of the above evidence, it is established that for commission of rape on Ramsheela Bai a criminal prosecution was launched against accused Tahal Ram, in that case, he was acquitted.

13. As far as third circumstance is concerned, PW-18 Dau Lal has stated that Ramsheela Bai was unmarried. This fact has not been challenged, therefore, it is established that Ramsheela Bai was unmarried. PW-18 Dau Lal has stated that on account of physical relations of Ramsheela Bai with accused Tahal Ram, she became pregnant and gave birth to Hiralal. Tahal Ram refused to maintain Ramsheela Bai and Hiralal. Ramsheela Bai was having illicit relations with Tahal Ram since last 3-4 years. PW-19 Laxmi Bai has also stated that Ramsheela Bai used to meet Tahal Ram secretly. Tahal Ram committed rape on Ramsheela Bai, on account of that, she became pregnant and gave birth to one child namely, Hiralal. In cross-examination, defence has not been able to discredit their evidence. Even PW-15 Lalit Kumar Sahu has also stated that Ramsheela Bai was unmarried. Ramsheela Bai was having illicit relations with accused Tahal Ram, on account of that Ramsheela Bai gave birth to Hiralal. PW-12 Yogendra Sahu has stated that Ramsheela Bai was

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unmarried. Hiralal was the child of Ramsheela Bai. Ramsheela Bai gave birth to Hiralal on account of illicit relations of Ramsheela Bai with Tahal Ram. When Ramsheela Bai became pregnant, a Panchayat was convened, in that, Ramsheela Bai disclosed that she is pregnant on account of her physical relations with Tahal Ram but Tahal Ram denied that. Thereafter, the matter was reported in the police station. Ultimately, Tahal Ram was acquitted. Therefore, from the above evidence, it is established that Ramsheela Bai was unmarried. There were physical relations between Ramsheela Bai and Tahal Ram, on account of that, she became pregnant and gave birth to Hiralal.

14. As far as fourth circumstance is concerned, PW-18 Dau Lal, father of Ramsheela Bai has stated that when Tahal Ram committed rape on her daughter, she became pregnant and gave birth to one child namely, Hiralal, but accused Tahal Ram refused to maintain Ramsheela Bai and her child Hiralal, on which a case for maintenance was filed in the Court. PW-19 Laxmi Bai has also stated that for maintenance of the child a case was filed in the Court, for attending the Court, on the fateful day, her husband went to Dhamtari and he returned in the evening. This fact has not been challenged in cross-examination, therefore, it is established that case under Section 125 of the Cr.P.C. for maintenance allowance of Hiralal was filed against accused Tahal Ram by Ramsheela Bai which was pending in the Court at Dhamtari.

15. As far as fifth circumstance is concerned, PW-19 Laxmi Bai has stated that the accused persons gave threatening to Ramsheela Bai 3 days

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before the date of the incident. This fact was disclosed by Ramsheela Bai to her. In cross-examination, she has stated that while giving statement Ex.-D/2, she informed police that the accused persons gave threatening to her daughter. If same is not written in her statement Ex.-D/2, then she does not know the reason for not mentioning the above fact in her statement Ex.-D/2. On the basis of above evidence, it cannot be held that accused gave threatening to the deceased.

16. As far as sixth circumstance is concerned, PW-14 Baldau Singh Dhruv, Sarpanch of the village, has stated that on 9th March, 2000 accused Tahal Ram gave memorandum Ex.-P/15 regarding the place where he buried pieces of the bodies and heads. Memorandum Ex.-P/15 was written which bears his signatures. Accused Disu @ Deesen Ram also gave memorandum regarding the place where pieces of the bodies were buried and the place where chopped heads of Ramsheela Bai and Hiralal were buried. Memorandum given by accused Disu is Ex.-P/16 which bears his signatures. Accused Tahal Ram took to the place. After digging the place shown by the accused two heads were exhumed from the pit. PW-15 Lalit Kumar has also stated in para-5 of his evidence that the accused persons took to the police party on 10th on Tipani way, after digging the place shown by accused Tahal Ram, first of all, he saw stones, thereafter, two heads of the persons were found. Stones and sand were seized under Ex.-P/18. PW-22 B.C. Sahu, Additional Tehsildar, has stated that on 10-3-2000 he along with S.H.O. S.K. Dubey went to a place on the footway of village Rampur to Tipani. The parents of Ramsheela Bai were also with them. The accused persons took them and shown the place where heads of

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Ramsheela Bai and Hiralal were buried. After digging the place first of all stone was found. On removing the stone, two heads, one big head and one small head, were found. Therefore, Panchas were called, notices Ex.-P/10 & P/11 were given. Panchas after seeing the heads said that one head is of female which can be of Ramsheela and another can be of a child, therefore, inquest Ex.-P/12 & Ex.-P/13 were prepared which bears his signatures. PW-21 S.K. Dubey, sub inspector, has also stated that accused Tahal Ram while in the police custody gave memorandum Ex.-P/15 and accused Disu gave memorandum Ex.-P/16. On 10-3-2000 at about 2.30 p.m. the accused persons took them to a place where heads were buried. Two heads were taken into possession. In para-17 of cross-examination, he has stated that it is incorrect to say that at the time of inquest of the heads the accused persons were not present. On 9-3-2000, before recording memorandum the accused were in the custody. He has further stated that heads were sent for examination to the Primary Health Centre, Kurud. PW-6 Ishwar has stated that notices Ex.-P/10 & P/11 were given to him which bears his signatures. After digging the place near river two heads were exhumed, one was big and one was small. One head was of a female and another was of a male. Panchas said that heads are of Ramsheela Bai and Hiralal. Panchnamas Ex.-P/12 & P/13 were prepared which bears his signatures. Similar is the evidence of PW-7 Chintaram and PW-8 Bhishamram Sahu. Therefore, in view of the above evidence of the witnesses, it is established that accused Tahal Ram gave memorandum Ex.-P/15 and accused Disu gave memorandum Ex.-P/16, in pursuance of that, two heads, one of female and one of male were exhumed at their instance. Inquest Ex.-

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P/12 on the head of Ramsheela Bai and Ex-P/13 on the head of Hiralal was prepared. Hence, it is established that heads were recovered at the instance of the accused persons. In this connection, PW-3 Dr. Sanjay Kumar Dadu, Assistant Professor, Forensic Department, Medical College, Raipur, has stated that on 15-3-2000 on the request of police station Kurud he examined head which was said to be of Ramsheela Bai. There were 12 injuries on the head. In para-6 of his evidence he has stated that the head was of a female aged about 19 years. He has further stated that he examined other head. There were 2 injuries on the head. In his opinion, the head was of a small child aged about 3 years. Injuries were homicidal in nature. In cross-examination, he has categorically stated that the heads were of female and child aged about 3 years. The defence has not been able to discredit evidence of this witness about his opinion regarding heads of female and male child. Therefore, from the above evidence, it is established that two heads, one of female and one of male child were recovered at the instance of the accused persons based on their memorandums Ex.-P/15 & Ex.-P/16 in the presence of Executive Magistrate PW-22 B.C. Sahu. Dr. Sanjay Kumar Dadu has opined that those heads were of female and male, therefore, from the above evidence, it is established that the heads which were recovered at the instance of accused persons were of Ramsheela Bai and Hiralal.

17. As far as seventh circumstance is concerned, Dr. Sanjay Kumar Dadu (PW-3) has stated in his evidence that on the head of female there were 12 injuries, on the head of child there were 2 injuries, those

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

injuries were homicidal in nature. Therefore, it is established that death of Ramsheela Bai and Hiralal was homicidal in nature.

18. As far as eighth circumstance is concerned, PW-21 S.K. Dubey, sub inspector, has stated that on 9-3-2000 accused Tahal Ram while in the police custody gave information regarding the place where hexablade was thrown. Regarding carpenter axe and plastic bag being taken by co-accused Disu @ Deesen Ram, he also gave information that the clothes which he was wearing at the time of offence and the motorcycle are at his residence. Memorandum Ex.-P/15 was reduced into writing. Accused Disu @ Deesen Ram while in the police custody gave information that the clothes of the deceased were burnt near the drain. He further said that hexablade was broken and thrown in the river. He further said that the carpenter axe is in his house and the plastic bag has been thrown in the drain. He further said that crowbar and scissor were given to Tahal Ram. Memorandum Ex.-P/16 was reduced into writing which bears his signatures. Thereafter, at the instance of accused Tahal Ram burnt ashes of the clothes, hairs, bone pieces and plain soil were seized under Ex.-P/14. On 11-3-2000 at the instance of accused Tahal Ram, on being produced by Tahal Ram, one crowbar & one spanner were seized under Ex.-P/23 which bears his signatures. Thereafter, accused Tahal Ram produced full shirt, one seizure, one full pant stained with blood, same were seized under Ex.-P/24. The motorcycle of accused Tahal Ram was seized under Ex.-P/25. The broken pieces of hexablade and plastic bag were seized under Ex.-P/26 at the instance of accused Tahal Ram. He has further stated that at the instance of accused Disu @ Deesen Ram one

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	carpenter axe stained with blood, one half sleeve Baniyan stained with blood, full pant stained with blood, one full shirt stained with blood were seized under Ex.-P/22. PW-14 Baldau Singh Dhruv has stated that accused Tahal Ram gave information to the police that hexablade has been thrown in the drain. Carpenter axe has been given to accused Disu. He further disclosed that the clothes are at his residence. He also gave information regarding crowbar, scissor and the motorcycle. Memorandum Ex.-P/15 was written on his information. Accused Disu also gave information regarding carpenter axe, his clothes, Baniyan, Shirt, at his instance carpenter axe and his clothes stained with blood were seized under Ex.-P/22. Crowbar was seized at the instance of accused Tahal Ram under Ex.-P/23. Clothes of accused Tahal Ram stained with blood were seized under Ex.-P/24. The motorcycle of accused Tahal Ram was seized under Ex.-P/25. PW-15 Lalit Kumar has also stated that accused Tahal Ram gave memorandum Ex.-P/15, in pursuance of that, clothes, hexablade and motorcycle were seized. Carpenter axe stained with blood, clothes, full shirt, pant and Baniyan were seized under Ex.-P/22. Therefore, from the above evidence, it is established that crowbar and hexablade were recovered at the instance of accused Tahal Ram and carpenter axe was seized at the instance of accused Disu. Blood stain was found on Baniyan of Disu @ Deesen Ram and on pant of accused Tahal Ram which were recovered from their residence at their instance. As per the FSL report Ex.-P/37, carpenter axe which was seized at the instance of accused Disu was found stained with blood. His Baniyan was also found stained with blood. Full Pant of accused Tahal Ram marked as "S".	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Scissor marked as "T" and the plastic bag were found stained with blood.

19. Learned counsel for the accused/appellants argued that there is no serologist report that the blood which was found on these articles was of human blood that too of the blood group of the deceased persons, therefore, they cannot be connected with the crime in question.

20. It is true that there is no report regarding human blood found on these articles, but fact remains that the clothes of the accused persons and weapons of offence by which bodies of Ramsheela Bai and Hiralal were cut into pieces were found to be stained with blood, therefore, if this circumstantial evidence is considered together with other circumstantial evidence i.e. recovery of the heads of deceased persons namely, Ramsheela Bai and Hiralal at the instance of the accused persons after digging a pit near footpath existed between Rampur and Tipani along with other circumstances that accused Tahal Ram was having illicit relations with Ramsheela Bai, on account of that, Ramsheela Bai gave birth to Hiralal connects the accused persons based on these circumstantial evidence with the crime in question.

21. For the foregoing reasons, based on the above circumstantial evidence i.e. accused Tahal Ram faced criminal trial for commission of rape on Ramsheela Bai, Ramsheela Bai was unmarried at that time, she gave birth to Hiralal, when accused Tahal Ram refused to maintain Hiralal, a proceeding under Section 125 Cr.P.C. for maintenance allowance was initiated by Ramsheela Bai, that was pending in the Court at Dhamtari,

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

on 23-2-2000, Ramsheela Bai along with Hiralal left her parental house, thereafter their whereabouts could not be traced out, during investigation, accused Tahal Ram gave memorandum Ex.-P/15 & accused Disu gave memorandum Ex.-P/16 regarding the place where they buried heads of Ramsheela Bai & Hiralal, in pursuance of that, after digging the place shown by the accused persons heads of Ramsheela Bai & Hiralal were exhumed, same were sent for examination, as per the evidence of PW-3 Dr. Sanjay Kumar Dadu, one head was of a female aged about 19 years and other head was of a male child aged about 3 years, based on the information given by accused Tahal Ram and accused Disu hexablade, crowbar, carpenter axe and clothes of the accused persons were seized, as per the FSL report, carpenter axe and Baniyan of accused Disu were found stained with blood, similarly, full pant of accused Tahal Ram, scissor and plastic bag were found stained with blood. The above circumstantial evidence establishes involvement of the accused persons in the crime in question i.e. committing murders of Ramsheela Bai & Hiralal, thereafter, they caused disappearance of the evidence of murders i.e. weapons of offence, as also bodies of the deceased persons in order to screen from the legal punishments, as Ramsheela Bai first launched criminal prosecution against accused Tahal Ram for committing rape on her, thereafter, she initiated a proceeding under Section 125 of the Cr.P.C. for maintenance allowance, there was motive for accused Tahal Ram to eliminate these two persons in order to get rid of them, accused Disu being a friend of Tahal Ram, he also developed physical relations with Ramsheela Bai, therefore, both of them had motive to eliminate these two persons namely, Ramsheela Bai & Hiralal,

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

thereafter, they eliminated them. Heads of the deceased persons, weapons of offence and clothes of the accused persons stained with blood were recovered at their instance. Chain of circumstances is complete which unerringly points towards the involvement of the accused persons in the crime in question. Therefore, from the above circumstantial evidence, only irresistible conclusion can be arrived at that the accused persons were the persons who committed murders of Ramsheela Bai & Hiralal. There is no possibility of committing murders of Ramsheela Bai & Hiralal by anybody else.

22. In the result, the aforesaid appeals fail being devoid of merit, same are liable to be dismissed and they are hereby dismissed. Vide order dated 3-8-2004 accused Tahal Ram was granted bail. However, his bail bonds are cancelled and he is directed to surrender before the trial Court to serve out the sentence.

Sd/-
L.C.BHADOO
Judge

Sd/-
DHIRENDRA MISHRA
Judge

Barve